HEARING BEFORE THE CITY COUNCIL, APRIL 14, 2008

Hearing opened at 7:42 P.M. with Councillor Nickel, Chairman of the Public Service Committee presiding.

All members were present.

The following PETITION was the subject of the hearing:

National Grid: Lindell Avenue: Install one singly owned pole on Lindell Avenue beginning at a point approximately 100 feet east of the centerline of the intersection of West Street.

Councillor Nickel said correspondence was received from a representative of National Grid asking for a continuance of the hearing since he cannot be in attendance. Mr. Nickel said the hearing will be continued on April 28, 2008 at 6:55 P.M.

No one in the audience spoke in favor or in opposition of this petition.

HEARING ADJOURNED AT 7:44 P.M.

Lynn A. Bouchard, City Clerk and Clerk of the City Council

Hearing opened at 7:44 P.M. with Councillor Rowlands, Chairman of the Legal Affairs Committee presiding.

All members were present.

The following PETITION was the subject of the hearing:

Relative to amending Chapter 12 of the Revised Ordinance entitled "Licenses" by inserting a new section "Restrictions on Alcoholic Beverages in Food Service Establishments" prohibiting food establishments from allowing patrons to bring their own alcoholic beverages and consuming them unless authorized by the License Commission as a condition of the common victualler license.

No one in the audience spoke in favor or in opposition of this petition.

No Councillors spoke.

HEARING ADJOURNED AT 7:45 P.M.

Lynn A. Bouchard, City Clerk and Clerk of the City Council

REGULAR MEETING OF THE CITY COUNCIL, APRIL 14, 2008

Meeting was called to order at 8:00 P.M.

Attendance was taken by a roll call vote; all members were present.

The Committee on Records reported that the records through March 24, 2008 were examined and found to be in order. The records were accepted.

A moment of silence for Joseph DiPrima, a veteran City Councillor and a Veteran was observed for his passing.

Councillor Rosa, Chairman of the Finance Committee, read the Financial Report for the City into the Record. Account balances are as follows:

Excess and Deficiency Account (Free Cash) \$1,364,000.00
Emergency Reserve Account \$5,950.00
Stabilization Account \$8,639,686.00
Interest Earned for FY'08 \$290,005.50

The following COMMUNICATIONS were received, referred to the FINANCE COMMITTEE and given REGULAR COURSE.

C-116 Relative to the appropriation of \$10,500.00 to the Recreation Department Expense Account; same to be transferred from the Excess and Deficiency Account.

- C-117 Relative to the appropriation of \$9,000.00 to the Wire Department Expense Account; same to be transferred from the Excess and Deficiency Account.
- C-118 Relative to the appropriation of \$18,000.00 to the Wire Department Overtime Account; same to be transferred from the Excess and Deficiency Account.
- C-119 Relative to the appropriation of \$55,000.00 to the Sewer and Drains Expense Account; same to be transferred from the Excess and Deficiency Account.
- C-120 Relative to the appropriation of \$35,000.00 to the Economic Development Expense Account; same to be transferred from the Excess and Deficiency Account.
- C-121 Relative to the appropriation of \$500.00 to the License Commission Expense Account; same to be transferred from the Emergency Reserve Account.

The following PETITION was received, referred to the LEGAL AFFAIRS COMMITTEE, given REGULAR COURSE and referred to the Building Inspector and the Planning Board. A hearing was set for May 12, 2008 at 7:00 P.M. Vt. 9/0

Robert A. Salvatelli, John Dombrowski, Virginia A. Tocci, David Rowlands, Dennis A. Rosa, Richard M. Marchand, Wayne A. Nickel, James Lanciani, Jr. and Claire Freda: Amend the Leominster Zoning Ordinance Chapter 22, Section 16.10 through 16.10.2 (Generally Permitted Uses in an Industrial or Commercial District) to change the Special Permitting granting authority from the City Council to the Planning Board.

The following PETITIONS were received, referred to the WAYS & MEANS COMMITTEE, given REGULAR COURSE and referred to the Treasurer.

- The Teroy J. DiMauro d/b/a Leroy's Attic: Renew the second hand dealer license for the premises located at 609 Main Street.
- 77-08 Mark & Robyn Ellis: Renew the second hand dealer license for Ellis Marine & Fishing Supply, 646 Central Street.
- 78-08 Mark Gordon: Renew the second hand dealer's license for the premises located at Twin City Plaza.
- 79-08 Scott Atwood: Renew the second hand dealer license for the premises located at The Repair Place At Sears, The Mall at Whitney Field.

The following PETITION was received, referred to the WAYS & MEANS COMMITTEE, given REGULAR COURSE and referred to the Treasurer and License Commission.

80-08 Craig Long, Jakes Pub Inc., d/b/a Hot Shotz: Renew the license for two pool tables at 1295 Main Street.

The following PETITION was received, referred to the WAYS & MEANS COMMITTEE, given REGULAR COURSE and referred to the Treasurer and the Police Department.

81-08 Christopher Rivard: Grant a Transient Vendors License to sell flowers during May 2008.

Upon recommendation of the FINANCE COMMITTEE, the following COMMUNICATION was RATIFIED. Vt. 9 "yeas" Councillor Tocci abstained due to a possible conflict of interest.

C-108 Relative to the appropriation of \$100,000.00 to the Police Overtime Account; same to be transferred from the Excess and Deficiency Account. (Granted with an Emergency Preamble on March 24, 2008; another vote is required.)

Upon recommendation of the FINANCE COMMITTEE, the following COMMUNICATION was GRANTED and ORDERED. Vt. 9 "yeas"

- C-109 Relative to the appropriation of \$25,000.00 to the Unemployment Insurance Expense Account; same to be transferred from the Excess and Deficiency Account.
 - ORDERED: that the sum of Twenty Five Thousand Dollars (\$25,000.00) be appropriated to the Unemployment Insurance Expense Account; same to be transferred from the Excess and Deficiency Account.

Upon recommendation of the FINANCE COMMITTEE, the following COMMUNICATION was GRANTED and ORDERED. Vt. 8 "yeas" and 1 "nay", Councillor Dombrowksi opposed.

C-110 Relative to the appropriation of \$4,850.00 to the Mayor's Office Expense Account; same to be transferred from the Excess and Deficiency Account.

ORDERED: - that the sum of Four Thousand Eight Hundred Fifty Dollars (\$4,850.00) be appropriated to the Mayor's Office Expense Account; same to be transferred from the Excess and Deficiency Account.

RE: Office furnishing and configuration

Upon recommendation of the FINANCE COMMITTEE, the following COMMUNICATIONS were GRANTED and ORDERED. Vt. 9 "yeas"

C-111 Relative to the appropriation of \$6,500.00 to the Highway Expense Account; same to be transferred from the Excess and Deficiency Account.

ORDERED: - that the sum of Six Thousand Five Hundred Fifty Dollars (\$6,500.00) be appropriated to the Highway Expense Account; same to be transferred from the Excess and Deficiency Account.

RE: Simonds Pond Dam-follow up inspection \$1,500.00 Rockwell Pond Dam-new water tight manhole & gate box \$5,000.00

C-112 Relative to the appropriation of \$4,400.00 to the Doyle Field Expense Account same to be transferred from the Excess and Deficiency Account.

ORDERED: - that the sum of Four Thousand Four Hundred Dollars (\$4,400.00) be appropriated to the Doyle Field Expense Account; same to be transferred from the Excess and Deficiency Account.

RE: Football field-repairs to sprinkler system

C-113 Relative to the appropriation of \$8,000.00 to the Cemetery Salary and Wages Account; same to be transferred from the Cemetery Perpetual Care Income Trust Fund Account.

ORDERED: - that the sum of Eight Thousand Dollars (\$8,000.00) be appropriated to the Cemetery Salary and Wages Account; same to be transferred from the Cemetery Perpetual Care Income Trust Fund Account.

RE: Part-time summer help/May-August

Upon recommendation of the FINANCE COMMITTEE, the following COMMUNICATION was GRANTED. Vt. 9 "yeas"

C-114 Mayor Dean J. Mazzarella: Rescind the authorization of the \$17,200,000.00 bond for the Southeast Middle School Construction.

Upon request of the PUBLIC SERVICE COMMITTEE, the following PETITION was given FURTHER TIME. Vt. 9/0.

National Grid: Lindell Avenue: Install one singly owned pole on Lindell Avenue beginning at a point approximately 100 feet east of the centerline of the intersection of West Street.

Upon request of the PUBLIC SERVICE & LEGAL AFFAIRS COMMITTEES, the following PETITION was given FURTHER TIME. Vt. 9/0

C-115 Mayor Dean J. Mazzarella: Authorize the Mayor to accept a deed of the fee from Robert E. Eyles to the City of Leominster for approximately 25,193 square feet of the land known as "Southers Crossing".

Upon recommendation of the LEGAL AFFAIRS COMMITTEE, the following PETITION was GRANTED with CONDITIONS. Vt. 6 "yeas"; Councillor Dombrowski abstained due to a possible conflict of interest and Councillors Nickel and Salvatelli were not eligible to vote because they were not present at all of the hearings. The conditions are as follows:

- 1. Compliance with all federal, state, and city regulations, ordinances and codes.
- 2. An approval, by the Planning Board, of the Site Plan including any conditions that the Planning Board deems necessary to be added to the Site Plan.
- 3. Full compliance with said approved Site Plan including any conditions put on Site Plan by the Planning
- 4. No more than 50% of this project site may be used for any one of, or any combination of, the following non-industrial uses which are specified in the Mixed Use Development Project definition in Section 22-4 of the Leominster Zoning Ordinance:
 - a. Personal and consumer service establishments
 - b. Retail stores
 - c. Banks
 - d. Restaurants including drive-in
 - e. Such other commercial uses as typically found in such Mixed Use Centers and Parks.

- 5. No parking for businesses at the specified location shall be located on Route 117.
- 6. No parking on existing right of way easements.
- 7. Parking and access on the site shall be arranged so that no vehicles shall back out onto Route 117.
- James L. Xarras, Union Square Realty Trust: Grant a Special Permit for an Industrial complex at 453-511 Lancaster Street located in an Industrial Zone and shown on Assessor's Map 443A, Lots 1 and 6 for a Mixed Use Project.

Upon request of the LEGAL AFFAIRS COMMITTEE, the following PETITIONS were given FURTHER TIME. Vt. 9/0.

- Ronald C. Largey: Grant a Special Permit to use an existing building for auto mechanic work and to sell used cars, maximum of 20 cars, located in an Industrial zone at 146 Hamilton Street and shown on Assessor's Map 238, as Lot 6. (A hearing is scheduled for April 28, 2008 at 7:00 P.M.)
- Daniel J. McCarty, an individual owning land being affected by change: Amend the Leominster Zoning Ordinance Article II Use Regulations, Section 22-26 Table of Uses-Business Uses to allow Beautician and Barber Shops in the Residential C zone by Special Permit from the Planning Board. (A hearing is scheduled for April 28, 2008 at 7:15 P.M.)

Upon request of the PUBLIC SAFETY COMMITTEE, the following PETITION was given FURTHER TIME. Vt. 9/0

Shirley Jeffreys, New Hope Community Church: Request permission to use a portion of Summer Street on May 24, 2008, rain date of May 31, 2008, from 9:30 A.M.-3:00 P.M. for a basketball tournament in conjunction with their MayFest Gospel Celebration at Carter Park.

Upon recommendation of the WAYS & MEANS COMMITTEE, the following PETITIONS were GRANTED. Vt. 9/0

- 69-08 Gamestop, Inc. d/b/a Gamestop #3594: Grant a second hand dealer license at 26 Orchard Hill Park Drive.
- Gamestop, Inc. d/b/a Moviestop #7045: Grant a second hand dealer license at 82 Orchard Hill Park Drive.
- 71-08 Gamestop, Inc. d/b/a Gamestop #1485: Grant a second hand dealer license at 100 Commercial Road.
- 72-08 Michael Sardellis: Renew the license for two pool tables at Chris' Twins Café, 488 Lancaster Street.
- 73-08 Carol and David Shields: Renew the license for three pool tables at South Leominster Lounge d/b/a Fortes Lounge, 1030 Central Street.

Upon request of the WAYS & MEANS COMMITTEE, the following PETITION was given FURTHER TIME. Vt. 9/0

74-08 Kym LeBlanc: Renew the license for one pool table at The Tankard, 13 Central Street.

Councillor Dombrowski, Chairman of the President's Drinking Water Oversight Committee, said the report dated March 31, 2008 from Woodward and Curran has been received. He said the report indicates that by the end of June the Council will be asked to approve a \$19.2M loan to remedy the water problems. He said he has put together a list of questions relative to the report and questions in general for the Administration. The questions are based on the Woodard and Curran report.

- 1. How often is water transferred from Fallbrook?
- 2. Is there any negative affect on Fallbrook from transferring this water?
- 3. How much water is transferred on a monthly basis?
- 4. Who does this work and what is the cost of this work?
- 5. Is this water cocktail or mixing of the water from the two reservoirs part of the permanent solution or will a coagulant eventually work alone?
- 6. Given that the City was approved for \$19.2 M loan what is the actual estimated cost of everything that the City needs to do?
- 7. How is this broken down? How much for each individual project?
- 8. Does the \$19.2M include money already spent on consultants, engineering, plans etc.?
- 9. Mr. Benevides indicates that they had to stop using the coagulant at some point because of the dramatic drop in the water PH and when they stopped using the coagulant the TTH levels rose. Does this mean the coagulant is not working? We need to have this explained in detail. They also need to explain the relevance and the significance of the water PH level in detail. Councillor Dombrowski said we need some confirmation from the engineers that we are paying for the work being done that will address DEP's increased compliance levels so the City won't be dealing with the same problem in the foreseeable future.
- 10. What is being done to address the water capacity issues raised in the initial Woodward & Curran report?

Councillor Dombrowski said the following are general questions for the Administration.

- 1. Given the loan for the Library and the \$19.2M loan for water issues, what is our plan for the High School and the Police Station building deficiencies?
- 2. Given the fact that the Council needs to vote to approve the \$19.2 M loan by the end of June, what is the exact plan regarding the water issues?
- 3. What is the Capital Plan that is required per the Charter?

Councillor Dombrowski said if the Councillors had any questions they could give them to him and he will submit a complete list of questions to the Administration to forward to Woodward and Curran so when they come down they can give the Council a focused meeting on what they are looking for.

Councillor Rowlands said he would like to make a couple of points regarding the latest report from Woodward & Curran. He said he wanted to emphasize that the wording by the Councilor is a quote with regard the TTHM's from the report. "Due to the dramatic drop of the raw water PH, at times below 4.0, the coagulant change has discontinued in January due to the deteriorating coagulating effectiveness." He said he has an article from the newspaper dated April 2, 2008 regarding the same issue with a quote from the Mayor that says "Cities and towns throughout the country are dealing with ways to lower TTHM levels after the Federal Environmental Protection Agency lowered the compliance levels." Mazzarella said "They have no clue what it does to people who run water systems. They're such a disconnect."

Councillor Rowlands said the problem in Leominster is not a problem from EPA standard where they drop the parts per billion of acceptable TTHM levels from 100 down to 80. He said we have to look at the root cause of what the problem is. He said the reality is that we exceeded the TTHM levels in the compliance order ten years ago. We had levels of TTHM that were elevated above the EPA standards long before they changed those standards. The standards were changed in 2003. Since 2003 we have had levels at Notown reservoirs that are way above and were way above the old standards. He said the problem in Leominster is not the EPA changing the standards from 100 to 80 but the action wasn't taken with Notown numbers except to average them with the other reservoirs. He said he thinks that we have to address two fundamental issues 1) the minimalist approach to addressing the water needs and 2) people just didn't do their jobs. He said these are the two fundamental issues that need to be addressed and not blame the EPA. He said if we do blame the EPA then he doesn't think we will come to a solution to fix this problem. He said he finds the quote in the newspaper very bothersome.

Councillor Dombrowski said he would like to take a vote to bring Woodward & Curran and some members of the Department of Public Works down to a meeting.

Councillor Marchand said we have a date of May 12, 2008 available and asked how much time is needed.

Councillor Dombrowski said a deadline for the questions would be Friday, April 25, 2008.

Councillor Salvatelli said they have always had this type of meeting on an off night and we probably will need an hour and a half or two and that doesn't include everyone else that has questions.

Councillor Marchand said we can schedule it on the same night as a subcommittee meeting, or schedule it on an off night to deal with this separately. He said a decision is not needed at this moment. Councillor Marchand said he respectfully asks that a separate meeting on the bond authorization be considered when that appropriation comes down to the Council. He said he wants a major meeting with disclosure to the public on how this will play out from a financial point of view.

Councillor Nickel said this is an important issue and we should have this on a separate night or a special City Council meeting and make sure it is televised.

Councillor Rowlands said he wants to make it clear that there has been many letters to the editor by department heads over and over again to the newspaper that he has sat back. He said he has had a conversation with our paid consultant and asked if they were familiar with these letters and they said yes, they were asked to review them. He said he sat back patiently while he watched, what he thought, was an effort to play things out a little different in the public because it was such a sensitive topic. He said this wasn't a first reaction to one article it was a accumulation of several and he was very disturbed by this. He said ultimately it's about getting the work fixed and to get it fixed you have to identify the problem. He said the EPA changing of the regulations is not the problem. He said there are 351 cities and towns in Massachusetts and very few of them have a consent order from the DEP and we have violated the old numbers.

Councillor Dombrowksi said he agrees with the Ward One Councillor but he thinks it is important to note that there has been a lot of improvement and the City has been complying with the consent order. It is his understanding that the TTHM levels are at the accepted requirements. He said the actions that will be taken now will be affected by generations so we want to make sure all the ducks are in order.

Councillor Rowlands said he would like a note sent to the Mayor's office reminding them to send down appointments.

Councillor Lanciani said he would like a letter sent to Larry Gianakis for his handling of the Inspections for the Conservation Commission. He has done that position for about a year and a half while the position was vacant. He did an excellent job filling in and doing the inspections.

Councillor Rowlands said we have a project called Southgate where we accepted the easement for land with regard to the MORE Grant. He said he sent the Mayor via e-mail of several questions because of our responsibilities of the MORE Grant.

This is a reimbursement account and we have to put up the money for the development of the road. Councillor Rowlands asked how are we going to be reimbursed and where is that money going to come from? Also, the PWED Grant and the MORE Grant total to approximately \$5,000,000.00. He said he had a lot of questions like who in the City will be handling that and how is it going to work. He said he would like to have someone come down before us to explain the process for us.

Councillor Marchand said he believes it is Lisa Vallee.

A motion was made and seconded to bring down the appropriate official that is dealing as the City's liason on this particular matter for an informational meeting to update and answer questions to be conveyed prior to the meeting on May 12, 2008 at 6:30. Vt. 9/0

Councillor Freda said last Tuesday there was a very important vote taken at the Massachusetts Municipal Association level. She read into the record:

MASSACHUSETTS MUNICIPAL ASSOCIATION

The Massachusetts Municipal Association firmly believes that in order to build and sustain strong and vibrant communities throughout the Commonwealth, it is essential to promote and protect basic human rights, mutual understanding, and reconciliation.

In a resolution adopted on September 11, 2007, the MMA Board of Directors stated that the terrible crimes committed against the Armenian people by the Ottoman Empire in 1915 must be recognized as genocide. In its resolution, the MMA applauded the New England Regional Director and New England Regional Executive Committee of the ADL for unequivocally recognizing the Armenian Genocide. The MMA further called on the National ADL to adopt the position of the New England Region at the ADL's National Commission meeting in November and to support the Congressional Resolution on the Armenian Genocide.

The MMA Board of Directors expresses its strong disapproval that the National ADL did not use the opportunity of its November meeting to clarify and strengthen its earlier statements concerning recognition of the Armenian Genocide. The Board believes that unequivocal recognition of the Armenian Genocide is both a matter of basic justice to its victims as well as essential to efforts to prevent future genocides.

Since 1999, the MMA has been an official sponsor of the No Place for Hate (NPFH) program offered by the New England Region of the ADL. The NPFH program is intended to assist municipalities in Massachusetts to combat bias and promote tolerance. By helping to reduce acts of violence and discrimination, NPFH has brought important tangible benefits to the cities and towns which have chosen to participate in the program. It stands as a worthy monument to the good works of the man who inspired its creation, the late Leonard Zakim.

The inconsistency between the National ADL's position on the Armenian Genocide and the human rights principles underlying NPFH is a matter of great concern to MMA Board members and the municipalities they represent. The MMA feels strongly that it is imperative to speak with absolute clarity on genocide and that, due to the NPFH program's association with the National ADL, the Association will no longer be a sponsor of the program.

While these issues will continue to be discussed by municipalities and concerned individuals, the NPFH program has changed. The New England Region of the ADL recently announced that the NPFH program is moving to a community-based model. The program will be available as a resource to community and civic groups but will no longer seek local government sponsorship or certify cities and towns as NPFH communities.

For Massachusetts municipalities that seek a program specifically designed for local governments to promote tolerance, combat racism and discrimination, and facilitate community-building, the MMA commends the National League of Cities Inclusive Communities program, which can be accessed via the NLC's website (www.nlc.org). The NLC's program includes 190 cities and towns in 40 states and provides an ever-expanding toolbox for municipal officials.

Statement Adopted by Vote of the MMA Board of Directors on 04/08/08

Upon recommendation of the WAYS & MEANS COMMITTEE, the following APPOINTMENTS were CONFIRMED. Vt. 9 "yeas"

Election of City Clerk- Lynn A. Bouchard – term to expire April 15, 2013

The following ORDINANCE was read a second time, ADOPTED as presented and passed to be ordained. Vt. 9 "yeas"

The City of Leominster
In the year two thousand and eight

Amend Chapter 12, Article II of the Revised Ordinances entitled "Licensing Board" is hereby amended by inserting the following section after Section 12-7:

Section 12-8 Restrictions on Alcoholic Beverages in Food Service Establishments.

No Person or entity licensed to sell food products shall allow the consumption of alcoholic beverages on the licensed premises, unless (A) they also hold a license to sell alcoholic beverages issued by the License Commission pursuant to G.L. c.138, or (B) they are expressly permitted to allow patrons to bring and consume their own alcoholic beverages into the licensed premises ("BYOB"). Such permission may only be granted by the License Commission as an express condition on the common victualler license or other license to sell food projects. The License Commission may consider factors including, but not limited to, the public need or convenience, traffic, noise, size, type of business and the reputation of the applicant. Upon receipt of a request from a licensee to allow patrons to bring and consume alcohol on the licensed premises, the License Commission shall conduct a public hearing on said request, with notice of said hearing to be published in the manner set forth at G.L. c. 138, §15A at the licensee's expense. Any violation of the provisions of this ordinance shall constitute grounds for suspension or revocation of the common victualler license or other license to sell food products.

Upon request of the LEGAL AFFAIRS COMMITTEE the following PETITIONS were given FURTHER TIME. Vt. 8/1; Councillor Freda opposed.

Randy Bigelow, 375 Harvard Realty LLC: Grant a Special Permit to use 12,800 square feet of an existing building, located at 375 Harvard Street, shown on Assessor's Map 370 as lot 19 and located within an Industrial Zone for a Christian book store. (Legal Affairs Petition 26-06. This Special Permit was granted with conditions on January 9, 2006.)

Joseph Altman: Grant a Special Permit to use an existing building at 195 Hamilton Street, located in an industrial zone and shown on Assessor's Map 229 as Lot 3, for a consignment shop. (**Legal Affairs Petition 87-06. This Special Permit was granted July 24, 2006.**)

The following ORDINANCE was read once, adopted as presented and ordered published. A hearing was set for April 28, 2008 at 7:30 P.M. Vt. 9/0

1st Reading Ordinance-Amend Chapter 13 of the Revised Ordinances entitled "No Parking on Certain Streets by deleting "Crestfield Lane (north side) from West Street for three hundred fifteen feet west," and inserting "Crestfield Lane (north side) from a point one hundred and six feet from West Street for one hundred twenty nine feet west.

The following ORDINANCE was read once, adopted as presented and ordered published. A hearing was set for April 28, 2008 at 7:35 P.M. Vt. 9/0

1st Reading Ordinance-Amend Chapter 7 of the Revised Ordinances entitled "Electricity" by adding Section 7-6 "Utility Contact Information on Equipment" requiring all utility companies to place proper identification, complete with all necessary contact information on all their structures or devices.

MEETING ADJOURNED AT 9:45 P.M.

Lynn A. Bouchard, City Clerk and Clerk of the City Council